

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
(Big Stone Gap Division)**

<b>RONALD A. MCCLELLAN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.</b> _____
	)	
<b>COMMERCIAL ELECTRONICS, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**NOTICE OF AND PETITION FOR REMOVAL**

Defendant Commercial Electronics, Inc. (“CEI”), by counsel and pursuant to 28 U.S.C. §§ 1331, 1367, 1441(a), and 1446, files this Notice of and Petition for Removal to remove this action from the Circuit Court for Scott County, currently pending as Case No. CL18000646-00, to the United States District Court for the Western District of Virginia, and in support thereof states as follows:

1. On or about July 9, 2018, Plaintiff Ronald A. McClellan (“McClellan”) filed a civil action against CEI in the Circuit Court for Scott County (Case No. CL18000646-00) (the “Complaint”), attached hereto as Exhibit A.
2. In the Complaint, Plaintiff alleges that CEI is a Virginia corporation located at 204 East Jackson Street, Gate City, Virginia. Ex. A., Compl. at ¶ 2.
3. The allegations (and purported claims) in the Complaint arise out of McClellan’s employment with, and termination of his employment from, CEI. *Id.* at ¶ 14.
4. Although far from clear on its face, the Complaint apparently seeks to advance a claim that McClellan’s termination of employment “was in violation of [McClellan’s] rights under the

Family Medical Leave Act” (the “FMLA Claim”). *Id.* at ¶ 13.

5. Removal is proper, pursuant to 28 U.S.C. § 1331. This Court has original jurisdiction over the FMLA Claim because the Family Medical Leave Act is a federal statute and thus, McClellan’s FMLA Claim arises under federal law.

6. The Court also has supplemental jurisdiction over any other claims that Plaintiff seeks to advance in the Complaint pursuant to 28 U.S.C. § 1367(a), as such claims are so related to the FMLA Claim that they form part of the same case or controversy under Article III of the United States Constitution.

7. This Notice is timely filed pursuant to 28 U.S.C. § 1446(b), as it is filed within 30 days after CEI first received a copy of the Complaint. A copy of this Notice of Removal will be filed with the Clerk for the Circuit Court of Scott County.

8. A copy of all process, pleadings, and other orders served upon and filed by CEI is being contemporaneously filed with this Court.

9. By removing this action, CEI does not waive – and expressly reserves – any and all defenses, objections, motions, and counterclaims available to it.

WHEREFORE, Defendant Commercial Electronics, Inc. respectfully requests that this Court assume jurisdiction over this action based on the federal question presented on the face of the Complaint, and issue all orders and processes necessary to remove this action.

Dated: July 30, 2018

Respectfully submitted,

**COMMERICAL ELECTRONICS, INC.**

/s/ Rachael L. Loughlin  
Vijay K. Mago (VSB No. 40531)  
Rachael L. Loughlin (VSB No. 84133)  
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*Counsel for Defendant Commercial  
Electronics, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of July 2018, I served a true and accurate copy of the foregoing NOTICE OF AND PETITION FOR REMOVAL on counsel for Plaintiff via U.S.

Mail addressed as follows:

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(276) 328-2433

/s/ Rachael L. Loughlin  
Rachael L. Loughlin, Esq.